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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/964,801	09/28/2001	Toshiro Tsuchida	P21330	2858

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EXAMINER	
MARKS, CHRISTINA M	
ART UNIT	PAPER NUMBER
3713	

DATE MAILED: 10/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/964,801	TSUCHIDA ET AL.	
	Examiner	Art Unit	
	C. Marks	3713	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *06 August 2003* .

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-4,7-10,18-21,24-28,31-36,38,46-49,52-56 and 59-64* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-4,7-10,18-21,24-28,31-36,38,46-49,52-56 and 59-64* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☒ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) *4 and 6* .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

Claim Objections

The objection to claim 8 for lacking antecedent basis has been withdrawn due to the amendment filed 06 August 2003.

Claim Rejections - 35 USC § 112

The rejection of claims 7, 9, 17, 24, 31, 38, 45, 52 and 59 for using the variables n and N has been withdrawn due to the amendment filed 06 August 2003.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 7, 9, 24, 31, 38, 52, and 59 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 7, 24, 31, 38, 52, 59, and those dependent therefrom are indefinite in that one of ordinary skill in the art would not be able to ascertain the subject matter being recited. An ordinary skilled artisan would not understand whether the Applicant intends for the action sequence to be displayed through a predetermined number of turns and upon a player command to display after the player's turn, the action sequence is changed or if the player can actually change the action sequence. The language does not properly define the intention of the Applicant and would thus be indefinite in that one of ordinary skill in the art would not be able to determine the merits of the language to characterize that which the Applicant defines the invention.

Further regarding claim 9 and based upon the indefiniteness defined above carried into the claim via the dependency, one of ordinary skill in the art would further not be able to ascertain what is meant by a controller part name and how it would have an affect on the change of the direction as the change is not properly defined and it would not be easily ascertained what is meant by the phrase "controller part name."

For examination purposes, the claims will be evaluated as best understood by the Examiner.

Claim Rejections - 35 USC § 101

The rejection of claims 11-17 and 39-45 has been withdrawn due to the cancellation of those claims in the amendment filed 06 August 2003.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-4, 7-10, 18-21, 24-28, 31-36, 38, 46-49, 52-56 and 59-64 are rejected as being unpatentable over Perrin et al. (Runequest) in view of Peterson et al. (Champions: The Super Hero Role Playing Game) further in view of Tufte (The Visual Display of Quantitative Information).

Perrin et al. disclose a gaming method wherein strike rank and action sequence are based upon specific information about a character (page 16, Column 1). Perrin et al. disclose that in any combat the edge is the chance of striking first thus setting the pattern for the battle (page 16, Column 1). Perrin et al. control a battle between at least one player and at least one enemy by calculating data to determine an action sequence based on specific information (page 16). Each

character has a strike rank calculated based upon specific information regarding the character and based upon the strike rank calculated for each character, an action sequence will be determined. The information regarding the character relates to an action the character is to perform as weapon length is considered. The information also relates to characteristics applied to each character at the current moment such as size and status derived from the game such as movement and surprise (page 16).

The game of Perrin et al. is not disclosed as a computer game. Perrin et al. disclose a method for a game wherein players use data relating to each player to create battles. It is notoriously well known in the art that any gaming method can be embodied into a computer version and it is obvious to one of ordinary skill in the art to do so. One of ordinary skill in the art would be motivated to computerize the game disclosed by Perrin et al. in order to provide the players with a versatile gaming atmosphere wherein computations regarding who goes first in a battle could be automated and calculated by a computer instead of a the player. By providing this computer version, error would be reduced and the speed of play would be increased and players would not become bored with the time it would take to compute the data relating to the battle sequence of the characters. Likewise, it would be obvious that the program could be embodied on a computer-readable data storage medium for use wherein a player could access the game on any number of machines to increase portability. Further, by incorporating the method disclosed by Perrin et al., a video game processing method would result that would incorporate all the limitations of Perrin et al. into a method that would automatically calculate action sequences. In order for the system of Perrin et al. to be automated and embodied as a program, a video game apparatus would sufficiently be used that includes a storage device for storing the

program, a computer to execute the program and a display for the player to be able to identify the characters and the battle situation. Further, as a last function of computerizing Perrin et al., it would have been obvious to one of ordinary skill in the art to allow the computers running the game to be networked in order to provide the players with a chance to battle other players in a live environment thus adding a greater entertainment value to the game as the players would be able to interact with other players while having a virtually unlimited number of possible values thus increasing the excitement and variety available to the game.

Though Perrin et al. is only disclosed as a method for a game, it is notoriously well known in the art that any method of a game can easily be incorporated into a computer program, as a program is merely a number of steps as defined by a method. Likewise, any alterations as to the type of computer program used, including embodying it on a computer readable storage or processing apparatus, as well as networking the computer into other computers for uses such as an online gaming environment would have been obvious to one of ordinary skill in the art to the method of Perrin et al.

However, Perrin et al. do not disclose a method of displaying the sequence of action once it has been determined.

Peterson et al. also disclose a method for determining an action sequence between characters based upon specific information about the character (Combat). Peterson et al. also disclose a chart wherein player characters and enemy characters (based upon SPEED value) are ranked and placed upon an axis to indicate the sequence of action. Further, Peterson et al. also include a time axis to indicate which segment each character can perform in and by finding the intersection of the time axis and the action sequence action (CHARACTER'S SPEED CHART),

the timing of each action can be determined (page 51). Each action opportunity is displayed with a marker in order to display opportunities of attacking the enemy at these points (CHARACTER'S SPEED CHART). Like the game of Perrin et al., Peterson et al. is not disclosed as a computer game. Peterson et al. disclose a method for a game wherein players use data relating to each player to create battles. It is notoriously well known in the art that any gaming method can be embodied into a computer version and it is obvious to one of ordinary skill in the art to do so. One of ordinary skill in the art would be motivated to computerize the game disclosed by Peterson et al. in order to provide the players with a versatile gaming atmosphere wherein computations regarding who goes first in a battle could be automated and calculated by a computer instead of a the player. By providing this computer version, error would be reduced and the speed of play would be increased and players would not become bored with the time it would take to compute the data relating to the battle sequence of the characters. Further, the chart indicating the order in which the characters participate in each battle would thus be displayed on a screen for the player to read.

It would have been obvious to one of ordinary skill in the art at the time of invention to display a chart as disclosed by Peterson et al. into the system of Perrin et al. Perrin et al. discloses many of the same factors relating to segments as Peterson et al. and also disclose that, like Peterson et al., a characters speed is used in determining when the character can attack. One of ordinary skill in the art would be motivated to do this in order to present the player with a quick reference based upon their characteristics as to when they will be attacking. By providing the reference, the player will be more informed about how their characteristics relate to the order in which they attack.

Though Perrin et al. disclose the usage of a chart to indicate the order of play for each character by associating a speed with a battle segment, neither Peterson et al. nor Perrin et al. disclose that the display of action order includes displaying on the screen the actual characters along an axis.

Tufte discloses that there are numerous ways to display quantitative information (Introduction), information such as the order in which player has been assigned an attack order. Tufte defines this as the use of abstract pictures to show numbers as quantity, time-series, scatter plots, and multivariate displays. Tufte further explains that modern data graphics are instruments for reasoning about quantitative information. Further, Tufte states that the most effective way to describe, explore, and summarize a set of numbers is to look at pictures of those number as an effective way to describe a set of numbers (Introduction). Tufte also explains the goals in excellence of statistical graphics are to present complex ideas and numbers with clarity, precision and efficiency (page 13). Tufte explains the way to do this, as graphics reveal data, is to (page 13):

- show the data
- induce the viewer to think about the substance rather than the methodology
- avoid distortion
- present many numbers in a small space
- make the data sets coherent
- encourage the eye to compare different pieces of data
- reveal the data at several levels
- serve a clear purpose

- be closely integrated with the statistical and verbal descriptions

Tufte also discloses using an image of an animal character to show its advance in a situation (page 36). Tufte discloses the importance of aesthetics and technique in data graphical design and states that such designs often have a narrative quality, a story to be told about the data (page 177). Tufte also asserts that the design for a graphic is a choice (pg. 191). The theory of visual display of quantitative information consists of principles that generate design options and guide choices among the options. What is to be sought in design for the display of information is the clear portrayal of complexity. Not the complication of the simple, but to give visual access to the information, to reveal the complex (page 191).

It would have been obvious to one of ordinary skill in the art to apply the multiple teachings about graphic excellence of Tufte into the chart shown by Peterson et al. Peterson et al. disclose a chart to allow the user to determine which battles they will be participating in. However, this chart fails the goals of Tufte in that: it does not: induce the view to think about the substance, avoid distortion, make the data set coherent, encourage the eye to compare, reveal the data at several levels, or serve a clear purpose. One of ordinary skill in the art would thus be motivated to correct the deficiencies present in Peterson et al. based upon the teachings of Tufte. As shown by Tufte, the choice of the design used to correct these deficiencies would be that of the designer. However, based upon the suggestion of Tufte and the showing of using characters to represent position in Tufte, one of ordinary skill in the art would be motivated to display the information of the battle order in a clear and concise way in which the characters would all be placed along an axis to indicate the sequence of action wherein the axis is based on time, as is known in the art for graphs (x intercepts y), for a reader to understand the time/action

relationship. One of ordinary skill in the art would understand markers of a sort would be used to indicate the actions of the characters in order to properly display the data. The motivation for doing this lies in the suggestion of such by the character graphics of Tufte, but more importantly to meet the goals disclosed by Tufte for creating graphic excellence. By incorporating the display of the characters along the axis to indication sequence, the graphic (which would thus present the same information attempted by Peterson et al.) would show the data, induce the viewer to concentrate on the substance of the data (which player is next) as opposed to the methodology (how such player was calculated to be next), avoid distortion by clearly presenting who would be next, present the order of the character for a number of characters in a small space, with the data being coherent and easily compared to other data, revealing the data at several levels (such as who goes next in relation to the time in which they will go), while serving a clear purpose of identifying who will go next without the graphical confusion present in Peterson et al. Thus such a design choice for displaying the characters along an axis would be obvious to a skilled artisan as a means to clearly display the quantitative information calculated in both Peterson et al. and Perrin et al. for the reasons taught by Tufte.

Regarding claims 7, 9, 17, 24, 31, 38, 45, 52, 59 as best understood by the Examiner, Peterson et al. allows the action sequence for the current as well as future battles to be displayed on the screen. This data includes the current action as well as actions a set number of turns away. Though Peterson et al. do not disclose that a player prompt can change the display to a specific segment; it would have been obvious to one of ordinary skill in the art based upon the teachings of Tufte for the type of display suggested by Tufte and detailed above, to allow the player to request information for a certain segment since the information for all segments is

readily available to the user as disclosed above. This would be of benefit to the Perrin et al. system as the Perrin et al. system also deals with a number of segments wherein a battle sequence has been establish for each of these segments and thus a display allowing the player to get information regarding the battle for a specific sequence would be an asset to the player as in all role playing games, the more information you can gain, the better advantage you will be given, thus such a feature would be an attractive feature to a player. Likewise, when any part of the system is accessed in the manner disclosed above, it would be obvious to a skilled artisan to use a controller part to indicate the direction of change from which the part was accessed to further comply with the teaching of Tufte involving clarity and readability of graphics.

Response to Arguments

Applicant's arguments with respect to the pending claims have been considered but are moot in view of the new ground(s) of rejection presented above.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Marks whose telephone number is (703)-305-7497. The examiner can normally be reached on Monday - Thursday (7:30AM - 5:30 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teresa J Walberg can be reached on (703)-308-1327. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)-308-1148.

cmm
October 21, 2003

T. Walberg

Teresa Walberg
Supervisory Patent Examiner
Group 3700